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PATENT APPLICATION

ATTORNEY DOCKET NO. 200308263-1

IN THE  
UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s): Jeffrey C. Mogul

Confirmation No.: 3408

Application No.: 09/825,661

Examiner: D.A.C. Perez

Filing Date: April 3, 2002

Group Art Unit: 2154

Title: REDUCTION OF NETWORK RETRIEVAL LATENCY USING CACHE AND DIGEST

Mail Stop Appeal Brief - Patents  
Commissioner For Patents  
PO Box 1450  
Alexandria, VA 22313-1450

TRANSMITTAL OF REPLY BRIEF

Transmitted herewith is the Reply Brief with respect to the Examiner's Answer mailed on April 10, 2006.

This Reply Brief is being filed pursuant to 37 CFR 1.193(b) within two months of the date of the Examiner's Answer.

(Note: Extensions of time are not allowed under 37 CFR 1.136(a))

(Note: Failure to file a Reply Brief will result in dismissal of the Appeal as to the claims made subject to an expressly stated new ground rejection.)

No fee is required for filing of this Reply Brief.

If any fees are required please charge Deposit Account 08-2025.

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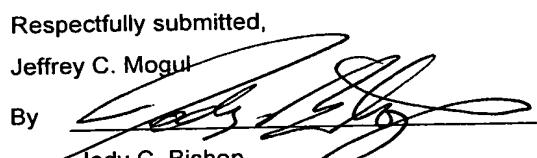
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Respectfully submitted,

Jeffrey C. Mogul

By

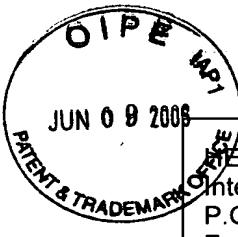
  
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Docket No.: 200308263-1  
(PATENT)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of:  
Jeffrey C. Mogul

Application No.: 09/825,661

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Art Unit: 2154

For: REDUCTION OF NETWORK RETRIEVAL  
LATENCY USING CACHE AND DIGEST

Examiner: D. A. C. Perez

**REPLY BRIEF**

MS Appeal Brief - Patents  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

As required under § 41.41(a)(1), this Reply Brief is filed within two months of the Examiner's Answer dated April 10, 2006, and is in furtherance of the Appeal Brief filed on January 20, 2006.

No fee is required for this REPLY BRIEF.

This brief contains items under the following headings pursuant to M.P.E.P. § 1208:

- I. Status of Claims
- II. Ground of Rejection to be Reviewed on Appeal
- III. Argument
- IV. Conclusion

**I. STATUS OF CLAIMS**

The status of claims remains as identified in the Appeal Brief submitted January 20, 2006, which is as follows:

**A. Total Number of Claims in Application**

There are 20 claims pending in application.

**B. Current Status of Claims:**

1. Claims canceled: None
2. Claims withdrawn from consideration but not canceled: None
3. Claims pending: 1-20
4. Claims allowed: None
5. Claims rejected: 1-20

**C. Claims on Appeal: 1-20**

The claims on appeal are claims 1-20.

**II. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL**

The grounds of rejection to be reviewed remain as identified in the Appeal Brief submitted January 20, 2006, which are as follows:

Claims 1-20 are rejected under 35 U.S.C. § 103(a) as being unpatentable over "The HTTP Distribution and Replication Protocol," <http://www.w3.org/TR/NOTE>, August 25, 1997 (hereinafter "DRP") in view of U.S. Patent No. 5,734,898 issued to He (hereinafter "He").

### III. ARGUMENT

Appellant respectfully traverses the outstanding rejections of the pending claims, and requests that the Board reverse the outstanding rejections in light of the remarks contained herein. As in the Appeal Brief of January 20, 2006, Appellant argues many of the rejected claims separately. Thus, Appellant respectfully asserts that separately argued claims do not stand or fall together, *see* 37 C.F.R. § 41.37(c)(1)(vii).

Appellant hereby reasserts those arguments that are presented for the separately argued claims in Appellant's Appeal Brief. For brevity, Appellant does not include those arguments herein, but instead submits the following supplemental remarks in reply to the Examiner's Answer.

#### **I. Rejections Under 35 U.S.C. § 103(a) over *DRP* in view of *He***

Claims 1-20 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *DRP* in view of *He*. To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art cited must teach or suggest all the claim limitations. *See* M.P.E.P. §2143. Without conceding any other criteria, Appellant asserts that insufficient motivation exists for making the combination in the manner applied by the Examiner, and the applied combination of *DRP* and *He* fails to teach or suggest all elements of claims 1-20, as discussed below. Thus, for the reasons discussed below, Appellant respectfully requests that the rejection be overturned.

*1. The Applied Combination Fails to Teach or Suggest All Claim Elements***Independent Claim 1 and Dependent Claims 2-3**

The combination of *DRP* and *He* fails to teach or suggest all elements of independent claim 1. For instance, independent claim 1 recites:

A method for reducing network retrieval latency, comprising the steps of:

sending a request for a data object to a server;  
receiving a header portion of a response to said request;  
parsing said header portion for a digest value;  
comparing said digest value to a digest index;  
retrieving a cached data object from a cache if said digest value has a match in said digest index;  
sending said cached data object to a client; and  
if said digest value has a match in said digest index, informing said server to stop sending a remaining portion of said response. (Emphasis added).

The combination of *DRP* and *He* fails to teach or suggest all of the above elements of claim 1. The Final Office Action relies on *DRP* as teaching all of the above elements except for “informing said server to stop sending a remaining portion of said response”, which the Office Action relies on *He* as teaching. However, *DRP* does not teach parsing a received header portion of a response for a digest value, comparing the digest value to a digest index, and retrieving a cached data object from a cache if the digest value has a match in the digest index.

As discussed in greater detail in the Appeal Brief of January 20, 2006, *DRP* does not teach or suggest a client requesting an object, receiving a response to that request where the response includes a header having a digest value, and comparing the digest value against an index to determine if the requested object is in the cache. Rather, in *DRP* the client first requests a separate index file that includes the respective content identifiers for the files of a site. The content identifiers (digests) contained in the index file may be used by the client to determine whether a desired file of the site is already possessed in the client’s cache, before the client requests the file from the server. Thus, in *DRP* the client first requests an index file for a site, and then determines by comparing the digests (content identifiers) contained in the index file for the files desired by the client, whether the client already possesses such files in its cache. If the client does not possess a desired file in its cache, the client may then request

from the server the file by including the respective content identifier of the desired file in its request to the server.

Claim 1 recites receiving a digest value in the header portion of a response to a request for a data object. Thus, embodiments of the present invention could be employed to alleviate requesting an index file by the client in the manner required by *DRP*. That is, *DRP* first requires a client to request an index file to obtain the digests for files of site, which is then used by the client to determine whether a desired file is possessed by its cache. Use of an embodiment encompassed by claim 1 could be used to alleviate the client first requesting an index file, wherein the client could instead request the actual content (data object) from the server, and in response to such request receive a digest value that the client can then use to determine whether the requested data object is already possessed by its cache (in which case the server is informed to stop sending the remaining portion of the data object).

As discussed in detail in the Appeal Brief of January 20, 2006, *DRP* describes using a content-ID or differential-ID in a header. For instance, the client may use a content-ID (obtained from a previously requested index file) in a request to a server to identify a specific version of a file that is desired by the client. Further, the server may include such content-ID in its response to the client's request. However, *DRP* does not teach that the client uses these IDs for comparing against an index to determine if the requested object is in the cache. Rather, in *DRP* the client first uses the content identifiers contained in an index file to determine whether a desired file is possessed in its cache, and thus when a file is requested from a server, the client has previously determined that it does not possess the file in its cache. Therefore, the content identifier included in a response from the server is not used by the client to compare against an index to determine if the requested file is in the client's cache (as the client has previously determined that it is not), but instead such a content identifier may be used to aid the client in verifying that the file being received from the server is the specific version desired by the client.

With regard specifically to claim 1, *DRP* does not teach or suggest all elements of claim 1 that the Final Office Action relies on *DRP* as teaching. First, *DRP* does not teach or suggest that the client compares a digest value (or the content-ID) received in a response header against an index and retrieves a cached data object from a cache if the digest value has a match in the index. Rather, using the *DRP* scheme, the client would check the content-ID

against the index for a site to determine if the desired content is already possessed by the client. If the content-ID matches that of the corresponding file in the index, then the client could forego downloading this content again. In this case, the content-ID that is compared against the index for a site is not included in a header of a response to a request for an object, as no request for the object is made to the server. That is, if the content-ID matches that of the corresponding file in the index, the client foregoes requesting the file from the server in *DRP*.

Further, as mentioned above, a content-ID and a differential-ID may be used as header fields in *DRP*. However, in the case in which these IDs are used, the content-ID or Differential-ID is not compared against the index, and thus a cached data object is not retrieved from the cache if a match occurs (as no comparison is made). Rather, in the instances in which these IDs are included in a header in *DRP*, the information identified by such IDs is to be retrieved from a server (because the client has previously determined that it does not possess the corresponding content in its cache). Any comparison that is made in this instance, is made at the server to determine the corresponding content to return to the client.

Appellant described in detail 3 different contexts taught by *DRP* and explained that neither of such contexts satisfy the elements of claim 1. The Examiner's Answer argues that "DRP also teaches at least one additional method not listed by Applicant", page 8 of the Answer. The Answer goes on to argue that *DRP* also teaches the following:

In particular, the passage on the Content Identifier Field within section 2.4 discloses that the client first sends a GET request to the server. DRP further recites that, "The content identifier of the returned file should be included in the HTTP reply header using the Content-ID header field." Note that the client identifier is equivalent to the recited digest value. Therefore, DRP explicitly contemplates receiving a header portion that includes a digest value in response to a client request. The parsing step is inherent for extracting the digest for comparison. It is further clear from the proceeding passages (Section 2.4, third paragraph; Section 2.3, Index Caching) that the extracted content identifier may be compared to a cached index file that was previously retrieved from the same or a different site in order to avoid duplicate downloading. Pages 8-9 of the Answer.

Appellant disagrees and maintains that *DRP* provides no teaching of suggestion of any scenario that satisfies all elements of claim 1. First, the above-quoted portion of the Answer asserts: "In particular, the passage on the Content Identifier Field within section 2.4

discloses that the client first sends a GET request to the server.” In actuality, section 2.4 of *DRP* does not disclose that the client “first” sends a GET request to the server for a desired data object. Rather, section 2.4 specifically teaches that a client first requests an index file that describes the structure and state of a set of data files. The first paragraph of Section 2.4 of *DRP* provides: “Given an index, it is possible for a client to determine exactly which files need to be downloaded, as well as the total size of the download.” The third paragraph of Section 2.4 of *DRP* further explains:

Note that a client can use a disk cache for data files, which is accessed using content identifiers. This means that if multiple indexes refer to a file with the same content identifier, the client can automatically detect that the file is already in the cache, and thus avoid downloading the file a second time.

Thus, the client first obtains an index file, and the content identifiers of the files listed in the index file may be used by the client to determine whether a desired file is already present in the client’s cache before requesting the file a second time. That is, if the index refers to a file with the same content identifier as for a file that is in the client’s cache, the client can retrieve that file from its cache and thus avoid requesting it from the server.

*DRP* goes on to explain in Section 2.4 thereof that since “it is possible to obtain an index for a large set of files, a mechanism is needed to obtain the correct version of each of the files that need downloading.” That is, if a client determines that a desired version of a file is not possessed in its cache, then the client needs a mechanism for requesting the desired version of the file from the server. *DRP* provides that the client may use a content identifier in its request to the server for identifying the specific version of a file desired. Accordingly, *DRP* explains:

When requesting a file, the client can include the content identifier in the HTTP GET request to the server. ... A new HTTP header field called Content-ID is used to specify the correct version of the file that is requested. The server can use the content-identifier in the Content-ID field server to determine if the requested version of the file can be delivered to the client.

Thus, this teaches that the client may include the Content-ID for a desired version of a file in a GET request to the server, and the server may use the Content-ID to identify the desired version of the file to serve to the client.

As the above-quoted portion of the Answer notes, Section 2.4 of *DRP* further mentions that in responding to such a GET request: “The content identifier of the returned file should be included in the HTTP reply header using the Content-ID header field.” Of course, *DRP* does not teach that such content identifier included in the reply from the server is used by the client for comparison to a digest index such that a cached data object is retrieved from cache if the content identifier (digest value) has a match in the digest index, as in claim 1. Rather, the GET request is made by the client only after the client has determined that the desired version of the file is not contained in its cache and is therefore needed to be downloaded from the server. While the reply from the server may include the content identifier, such content identifier is used merely to aid the client in verifying that the returned file is the version actually requested, and is not for use by the client in determining whether the requested file resides in cache (as the client has already determined that the desired file does not reside in cache in this instance). Additionally, Section 2.4 of *DRP* further explains:

Note that the server is not required to specify a Content-ID in the reply, and that it is the responsibility of the client to verify that the reply contains the correct content identifier if a Content-ID field is present in the reply.

Again, this teaching of *DRP* clarifies that any content identifier that may be included in the response from the server is merely used by the client for verifying that the file being downloaded is the version actually requested, and is not used in anyway for determining whether the file being downloaded exists in the client’s cache (as the client has previously determined that the file does not exist in its cache before issuing the GET request to download the file from the server).

The Answer asserts that “a primary purpose of DRP is to avoid redundant downloads of content that has already been cached.” Page 9 of the Answer. However, *DRP* avoids such redundant downloads by checking a previously downloaded index file containing digests of files to determine whether a desired file is possessed by its cache, and if a file is already possessed in cache then the client does not request it. In no instance, does a client request a file in *DRP* and in response to such request receive a digest that is used to determine whether the requested file is already in the client’s cache. Rather, *DRP* simply predetermines whether it needs to request the file (i.e., whether the file is in its cache) using a pre-downloaded index file, and so once a request is made for a file in *DRP* the client has already determined that it does not possess the requested file in its cache.

In view of the above, when the teaching of *DRP* is properly considered as a whole, it clearly provides a system in which a content identifier obtained in a requested index file may first be used by a client to determine whether a desired version of a file is present in the client's cache. If the desired version is determined by the client as not present in its cache, then the client requests download of the desired version of the file (by issuing a GET request that includes the content identifier of the file desired); and the response from the server may include the content identifier, but such content identifier is used merely to aid the client in verifying that the file being downloaded is the version desired. Any such content identifier included in a response from the server is not used by the client for determining whether the file being downloaded is in the client's cache, as the client has previously determined that the file is not in its cache before requesting the file to be downloaded from the server.

Additionally, claim 1 recites "informing said server to stop sending a remaining portion of said response." *DRP* does not inform the server to stop sending a remaining portion of the response. The Answer incorrectly asserts on page 10 thereof that "in order to avoid the redundant download, *DRP* would inherently have to cancel the request." This is simply not true. To establish inherency, the element must necessarily flow from the teaching of the *DRP* reference. The Examiner has failed to explain how this element necessarily flows from the teaching of the *DRP* reference, and thus has failed to establish inherency. Further, such teaching does not necessarily flow from the teaching of the *DRP* reference. Instead, as discussed above, *DRP* avoids a redundant download by a client not issuing a GET request to a server for a file that the client already possesses in its cache. Thus, a request need not be canceled, but instead the request to the server is simply not issued in the first place if the client determines that it already possesses the desired file in its cache.

Further, the Answer appears to concede that *DRP* does not teach "informing said server to stop sending a remaining portion of said response", *see* page 10 of the Answer. However, the Answer asserts, on page 10 thereof, that *He* teaches this element, and concludes that it would have been obvious to one of ordinary skill in the art at the time of the invention to modify *DRP* to include this teaching of *He*. However, *He* also does not teach or suggest "informing said server to stop sending a remaining portion of said response." Rather, the portion of *He* relied upon by the Answer refers to aborting a "transaction" (i.e., as opposed to committing the transaction), and does not refer to informing a server to stop sending a

remaining portion of a response. More particularly, the Answer cites to col. 3, lines 32-40 of *He* (at page 4 of the Answer), which provides:

FIG. 20 shows the operation of client A requesting a commit by the server of the update request described above. Client A sends commitRequest() to the server. Then the server returns commitReturn(). Similarly, for abort operation, an abort request and abort return are transferred. In this case, since the server version and client A version of object oid1 have already been updated to the same, the server will not send a version and other data to client A. This is a waste in terms of the usage of communication line.

This portion of *He* is addressing the performance of transactions and maintaining data objects consistent between a client and a server for performance of a transaction. Performing actions as “transactions” is well-known in the art, and one of ordinary skill in the art would readily appreciate that the above teaching of *He* is addressing aborting a transaction, as opposed to committing the transaction. Aborting the transaction is not referring to informing the server to stop sending a remaining portion of a response. The above portion of *He* also mentions that the server will not send a version and other data to client A because the versions of object oid1 contained on the server and client already match. Thus, this refers to the server foregoing the sending of data to the client, rather than the client informing the server to stop sending a “remaining portion” of a response.

The Answer asserts on page 10 thereof that in *He* “the abort request is sent to the server for the express purpose of stopping the transmission (i.e. stopping sending the remaining portion of the response) and thus preventing the redundant download.” This is not true. The abort request in *He* is to abort a transaction, rather than commit the transaction. Contrary to the assertion by the Examiner, an abort request is not sent in *He* for the express purpose of stopping a transmission. *He* does not teach that an abort request is used to stop a transmission. Rather, as discussed further in the Appeal Brief of January 20, 2006, *He* describes a technique in which an object in a client and server cache is updated as a transaction. That is, a client can request to update an object in the cache, and can then either “commit” the transaction or “abort” the transaction. If the update is committed, the server’s cache is modified to reflect the update. On the other hand, if the update is aborted, the server’s cache is not modified to reflect the update, but rather the object in the server’s cache remains as it was before the update. Thus, an “abort” in the transaction processing system of

*He* does not address stopping a transmission at all, but instead addresses whether an update is to be committed in a server's cache or not.

In view of the above, the applied combination of *DRP* and *He* fails to teach or suggest all elements of independent claim 1, and thus the rejection of claim 1 under 35 U.S.C. §103(a) should be overturned.

Claims 2-3 each depend either directly or indirectly from independent claim 1, and thus claims 2-3 each inherit all elements of claim 1. Therefore, claims 2-3 are each allowable over the applied combination of *DRP* and *He* at least for the reasons discussed above with claim 1. As such, Appellant respectfully requests that the rejection of claims 2-3 be overturned.

#### **Dependent Claim 4**

Dependent claim 4 depends from claim 1 and thus inherits all elements of claim 1. Accordingly, claim 4 is allowable over the applied combination of *DRP* and *He* at least for the reasons discussed above with claim 1.

Additionally, claim 4 further recites “receiving said remaining portion of said response from said server if no match for said digest value is found in said digest index based on said comparing step” (emphasis added). The combination of *DRP* and *He* further fails to teach or suggest this element of claim 4. The Answer maintains that *DRP* teaches this element. However, as discussed above with claim 1, *DRP* does not teach performing the comparing step for a digest value received in a response. Rather, in *DRP* the client compares digest values contained in a received index file with its cache, and the client requests a file from a server only after the client determines that the file is not present in the client's cache. Thus, Appellant respectfully requests that the rejection of claim 4 be overturned for this further reason.

**Dependent Claim 5**

Dependent claim 5 depends from claim 1 and thus inherits all elements of claim 1. Accordingly, claim 5 is allowable over the applied combination of *DRP* and *He* at least for the reasons discussed above with claim 1.

Additionally, claim 5 further recites “instructing said server to terminate a connection.” The combination of *DRP* and *He* further fails to teach or suggest this element of claim 5. Both the Final Office Action and the Examiner’s Answer fail to identify any teaching in *DRP* or *He* in which a server is instructed to terminate a connection. The Answer asserts at page 19 thereof that “*DRP* explicitly teaches informing a server to stop sending a remaining portion of a response.” As discussed above with claim 1, Appellant disagrees. Further, this assertion is contradictory to the Answer’s rejection of claim 1, which appears to concede that *DRP* does not explicitly teach such element and thus relies upon *He* as teaching the element, *see* page 10 of the Answer. Moreover, this assertion in the Answer does not address terminating a connection, but merely addresses stopping the sending of a remaining portion of a response. *DRP* and *He* do not provide any teaching of instructing a server to terminate a connection. Thus, Appellant respectfully requests that the rejection of claim 5 be overturned for this further reason.

**Dependent Claim 19**

Dependent claim 19 depends from claim 1 and thus inherits all elements of claim 1. Accordingly, claim 19 is allowable over the applied combination of *DRP* and *He* at least for the reasons discussed above with claim 1.

Additionally, claim 19 further recites “wherein said informing comprises: responsive to determining said digest value has a match in said digest index, performing said informing.” The combination of *DRP* and *He* further fails to teach or suggest this element of claim 19. As discussed above with claim 1, neither *DRP* nor *He* teaches or suggests informing a server to stop sending a remaining portion of a response. Moreover, neither reference teaches or suggests performing such informing “responsive to determining said digest value has a match in said digest index”.

In response to this argument, the Answer merely asserts at page 19 thereof that “DRP explicitly teaches informing a server to stop sending a remaining portion of a response”. Appellant respectfully disagrees for the reasons discussed above with claim 1. Further, this assertion is contradictory to the Answer’s rejection of claim 1, which appears to concede that DRP does not explicitly teach such element and thus relies upon *He* as teaching the element, *see* page 10 of the Answer. Moreover, this assertion in the Answer does not address informing a server to stop sending a remaining portion of a response “responsive to determining said digest value has a match in said digest index”, but instead merely addresses stopping the sending of a remaining portion of a response. *DRP* and *He* do not provide any teaching of informing a server to stop sending a remaining portion of a response “responsive to determining said digest value has a match in said digest index”. Thus, Appellant respectfully requests that the rejection of claim 19 be overturned for this further reason.

### **Independent Claim 6**

Appellant asserts that the rejection of claim 6 should be overturned for the reasons provided in the Appeal Brief of January 20, 2006. The Answer merely asserts that claims 6, 7, 10, 15, and 16 are properly rejected for the same reasons cited above with respect to claim 1, *see* pages 10-11 of the Answer. However, as discussed above, Appellant respectfully traverses the rejection of claim 1. Similarly, the rejection of claim 6 is likewise improper and should be overturned.

### **Independent Claim 7 and Dependent Claims 8-9**

Appellant asserts that the rejection of claim 7 should be overturned for the reasons provided in the Appeal Brief of January 20, 2006. The Answer merely asserts that claims 6, 7, 10, 15, and 16 are properly rejected for the same reasons cited above with respect to claim 1, *see* pages 10-11 of the Answer. However, as discussed above, Appellant respectfully traverses the rejection of claim 1. Similarly, the rejection of claim 7 is likewise improper and should be overturned.

Claims 8-9 each depend either directly or indirectly from independent claim 7, and thus claims 8-9 each inherit all elements of claim 7. Therefore, claims 8-9 are each allowable over the applied combination of *DRP* and *He* at least for the reasons discussed above with

claim 7. As such, Appellant respectfully requests that the rejection of claims 8-9 be overturned.

#### **Independent Claim 10 and Dependent Claims 11-12**

Appellant asserts that the rejection of claim 10 should be overturned for the reasons provided in the Appeal Brief of January 20, 2006. The Answer merely asserts that claims 6, 7, 10, 15, and 16 are properly rejected for the same reasons cited above with respect to claim 1, *see* pages 10-11 of the Answer. However, as discussed above, Appellant respectfully traverses the rejection of claim 1. Similarly, the rejection of claim 10 is likewise improper and should be overturned.

Claims 11-12 each depend either directly or indirectly from independent claim 10, and thus claims 11-12 each inherit all elements of claim 10. Therefore, claims 11-12 are each allowable over the applied combination of *DRP* and *He* at least for the reasons discussed above with claim 10. As such, Appellant respectfully requests that the rejection of claims 11-12 be overturned.

#### **Dependent Claim 13**

Dependent claim 13 depends from claim 10 and thus inherits all elements of claim 10. Accordingly, claim 13 is allowable over the applied combination of *DRP* and *He* at least for the reasons discussed for claim 10 in the Appeal Brief of January 20, 2006.

Additionally, claim 13 further recites “logic code for receiving said remaining portion of said response from said server if no match for said digest value is found in said digest index based on said comparing” (emphasis added). The combination of *DRP* and *He* further fails to teach or suggest this element of claim 13. The Final Office Action asserts that *DRP* teaches this element. However, as discussed with claim 10 in the Appeal Brief of January 20, 2006, *DRP* does not teach comparing a digest value received in a response. Rather, in *DRP* the client compares digest values contained in a received index file with its cache, and the client requests a file from a server only after the client determines that the file is not present in the client’s cache. Thus, Appellant respectfully requests that the rejection of claim 13 be overturned for this further reason.

**Dependent Claim 14**

Dependent claim 14 depends from claim 10 and thus inherits all elements of claim 10. Accordingly, claim 14 is allowable over the applied combination of *DRP* and *He* at least for the reasons discussed for claim 10 in the January 20, 2006 Appeal Brief.

Additionally, claim 14 further recites “logic code for instructing said server to terminate a connection.” The combination of *DRP* and *He* further fails to teach or suggest this element of claim 14. Both the Final Office Action and the Examiner’s Answer fail to identify any teaching in *DRP* or *He* in which a server is instructed to terminate a connection. The Answer asserts at page 29 thereof that “He discloses informing a server to stop sending a remaining portion of a response.” As discussed above with claim 1, Appellant disagrees. Moreover, this assertion in the Answer does not address terminating a connection, but merely addresses stopping the sending of a remaining portion of a response. *DRP* and *He* do not provide any teaching of logic code for instructing a server to terminate a connection. Thus, Appellant respectfully requests that the rejection of claim 14 be overturned for this further reason.

**Dependent Claim 20**

Dependent claim 20 depends from claim 10 and thus inherits all elements of claim 10. Accordingly, claim 20 is allowable over the applied combination of *DRP* and *He* at least for the reasons discussed for claim 10 in the January 20, 2006 Appeal Brief.

Additionally, claim 20 further recites “logic code for performing said informing responsive to said logic code for comparing determining that said received digest value has a match in said digest index.” The combination of *DRP* and *He* further fails to teach or suggest this element of claim 20. As discussed for claim 10 in the January 20, 2006 Appeal Brief, neither *DRP* nor *He* teaches or suggests informing a server to stop sending a remaining portion of a response. Moreover, neither reference teaches or suggests performing such informing “responsive to said logic code for comparing determining that said received digest value has a match in said digest index.”

In response to this argument, the Answer merely asserts at page 30 thereof that “He discloses informing a server to stop sending a remaining portion of a response”. Appellant

respectfully disagrees for the reasons discussed above with claim 1. Moreover, this assertion in the Answer does not address informing a server to stop sending a remaining portion of a response “responsive to said logic code for comparing determining that said received digest value has a match in said digest index”, but instead merely addresses stopping the sending of a remaining portion of a response. *DRP* and *He* do not provide any teaching performing such informing “responsive to said logic code for comparing determining that said received digest value has a match in said digest index”. Thus, Appellant respectfully requests that the rejection of claim 20 be overturned for this further reason.

### **Independent Claim 15**

Appellant asserts that the rejection of claim 15 should be overturned for the reasons provided in the Appeal Brief of January 20, 2006. The Answer merely asserts that claims 6, 7, 10, 15, and 16 are properly rejected for the same reasons cited above with respect to claim 1, *see* pages 10-11 of the Answer. However, as discussed above, Appellant respectfully traverses the rejection of claim 1. Similarly, the rejection of claim 15 is likewise improper and should be overturned.

### **Independent Claim 16 and Dependent Claims 17-18**

Appellant asserts that the rejection of claim 16 should be overturned for the reasons provided in the Appeal Brief of January 20, 2006. The Answer merely asserts that claims 6, 7, 10, 15, and 16 are properly rejected for the same reasons cited above with respect to claim 1, *see* pages 10-11 of the Answer. However, as discussed above, Appellant respectfully traverses the rejection of claim 1. Similarly, the rejection of claim 16 is likewise improper and should be overturned.

Claims 17-18 each depend either directly or indirectly from independent claim 16, and thus claims 17-18 each inherit all elements of claim 16. Therefore, claims 17-18 are each allowable over the applied combination of *DRP* and *He* at least for the reasons discussed above with claim 16. As such, Appellant respectfully requests that the rejection of claims 17-18 be overturned.

## *2. Insufficient Motivation to Combine DRP and He as Applied*

Additionally, the rejection of claims 1-20 should be overturned because the Final Office Action and the Answer both fail to establish proper suggestion or motivation to combine the teachings of *DRP* and *He*. The Answer merely asserts at page 4 thereof: “It would have been obvious to one of ordinary skill in the art at the time of the invention to modify *DRP* by informing the server to stop sending a remaining portion of said response for the purpose of preventing the download of a file already stored in the cache, as taught by *He*.” The language of the recited motivation is circular in nature, stating that it is obvious to make the modification because it is obvious to achieve the result. That is, such language is merely a statement that the *DRP* reference can be modified to inform the server to stop sending a remaining portion of a response so that the remaining portion of the response will not be sent. This does not identify any motivation for modifying *DRP* in this manner.

As described above, in *DRP* a client does not request a file until after it has first determined that such file is not possessed by the client’s cache. Thus, *DRP* provides no motivation for stopping the sending of a remaining portion of a response. Indeed, modifying *DRP* in this manner would appear to modify a principle of its operation because the client has previously determined that it needs the file being downloaded in *DRP*. Additionally, as discussed above, *He* provides no teaching or suggestion of informing a server to stop sending a response, and thus *He* provides no motivation for making such a drastic change to the operation of *DRP*.

It is well settled that the mere fact that references can be combined or modified does not render the resultant combination or modification obvious unless the prior art also suggests the desirability of the combination or modification. *In re Mills*, 916 F.2d 680, 16 U.S.P.Q.2d 1430 (Fed. Cir. 1990), as cited in M.P.E.P. § 2143.01. As detailed above, no such motivation has been identified here, and thus Appellant requests that the rejection of claims 1-20 be overturned for this further reason.

IV. CONCLUSION

Appellant respectfully requests that the Board overturn the rejections of pending claims 1-20 for the above reasons.

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Date of Deposit: June 9, 2006

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